

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

**U.S. Bank Trust N.A., as Trustee for LSF9
Master Participation Trust**

Plaintiff

vs.

Amy E. Smith and Curt W. Smith

Defendants

Portfolio Recovery Associates, LLC

Party-In-Interest

Case No. 1:20-cv-00053-LEW

JUDGMENT OF FORECLOSURE AND SALE

RE: 42 Elm Street, Bucksport, Maine
Book: 4221, Page 73

Plaintiff filed its Motion for Default Judgment on June 7, 2021. Plaintiff, U.S. Bank Trust N.A., as Trustee for LSF9 Master Participation Trust, is represented by John A. Doonan, Esq. Defendants, Amy E. Smith and Curt W. Smith, have not appeared or answered; Party-In-Interest, Portfolio Recovery Associates, LLC has not appeared or answered.

All persons interested having been duly notified in accordance with the law, the Plaintiff's Motion for Default Judgment is GRANTED. Count II - Breach of Loan Repayment and Security Agreement, Count III - Breach of Contract, Money Had and Received, Count IV - Quantum Meruit, and Count V - Unjust Enrichment are hereby **DISMISSED** without prejudice at the request of the Plaintiff. **JUDGMENT** on Count I - Foreclosure is hereby **ENTERED** as follows:

1. If the Defendants or their heirs or assigns pay U.S. Bank Trust N.A., as Trustee for

LSF9 Master Participation Trust (“U.S. Bank”) the amount adjudged due and owing (\$177,881.22) within 90 days of the date of the Judgment, as that time period is calculated in accordance with 14 M.R.S. § 6322, U.S. Bank shall forthwith discharge the Mortgage and file a dismissal of this action on the ECF Docket. The following is a breakdown of the amount due and owing:

<u>Description</u>	<u>Amount</u>
Principal Balance (Including deferred amount of \$60,439.54)	\$157,406.25
Interest	\$7,591.81
Escrow Advance	\$7,933.49
Recoverable Balance	\$4,929.67
Accumulated Late Charges	\$20.00
Grand Total	\$177,881.22

2. If the Defendants or their heirs or assigns do not pay U.S. Bank the amount adjudged due and owing (\$177,881.22) within 90 days of the judgment, as that time period is calculated in accordance with 14 M.R.S. § 6322, their remaining rights to possession of the Bucksport Property shall terminate, and U.S. Bank shall conduct a public sale of the Bucksport Property in accordance with 14 M.R.S. § 6323, disbursing the proceeds first to itself in the amount of \$177,881.22 after deducting the expenses of the sale, with any surplus to be disbursed pursuant to Paragraph 5 of this Judgment, and in accordance with 14 M.R.S. § 6324. U.S. Bank may not seek a deficiency judgment against the Defendants pursuant Plaintiff's waiver of deficiency.

3. Pursuant to 14 M.R.S.A. § 2401(3)(F), the Clerk, if requested, shall sign a certification after the appeal period has expired, certifying that the applicable period has expired without action or that the final judgment has been entered following appeal.

4. The amount due and owing is \$177,881.22.

5. The priority of interests is as follows:

- U.S. Bank Trust N.A., as Trustee for LSF9 Master Participation Trust has first priority, in the amount of \$177,881.22, pursuant to the subject Loan Repayment and Security Agreement and Mortgage.

- Portfolio Recovery Associates, LLC, who has been defaulted, has the second priority behind the Plaintiff pursuant to a Writ of Execution, dated October 10, 2013, in the amount of \$1,201.64, and recorded in the Hancock County Registry of Deeds in Book 6130, Page 178.

- Amy E. Smith and Curt W. Smith have the third priority behind the Plaintiff.

6. Entry of the Judgment also corrects two scrivener's errors in the legal description as found in the subject Mortgage, and as referenced in the Complaint for Foreclosure and Sale [ECF 1], in that on line 6 "RIDS" should be "RODS" and on line 8 "BE" should be "BY", to correct the aforementioned scrivener's errors and reflect the correct property description as attached hereto, as Exhibit A.

7. The prejudgment interest rate is 8.03000%, pursuant to the adjusted rate in the Loan Repayment and Security Agreement which is applicable since the loan is in default *see* 14 M.R.S. § 1602-B, and the post-judgment interest rate is 6.09%, *see* 14 M.R.S. §1602-C.

8. The following information is included in this Judgment pursuant to 14 M.R.S. § 2401(3):

	<u>PARTIES</u>	<u>COUNSEL</u>
PLAINTIFF	U.S. Bank Trust N.A., as Trustee for LSF9 Master Participation Trust 13801 Wireless Way Oklahoma City, OK 73134	John A. Doonan, Esq. Reneau J. Longoria, Esq. Doonan, Graves & Longoria, LLC 100 Cummings Center Suite 303C Beverly, MA 01915

DEFENDANT

Amy E. Smith
42 Elm Street
Bucksport, ME 04416

Pro Se

Curt W. Smith
42 Elm Street
Bucksport, ME 04416

Pro Se

PARTIES-IN-INTEREST

Portfolio Recovery Associates, Pro Se
LLC
c/o Corporation Service
Company
45 Memorial Circle
Augusta, ME 04330

- a) The docket number of this case is No. 1:20-cv-00053-LEW.
- b) All parties to these proceedings received notice of the proceedings in accordance with the applicable provisions of the Federal Rules of Civil Procedure.
- c) A description of the real estate involved, 42 Elm Street, Bucksport, ME 04416, is set forth in Exhibit A to the Judgment herein.
- d) The street address of the real estate involved is 42 Elm Street, Bucksport, ME 04416. The Mortgage was executed by the Defendants, Amy E. Smith and Curt W. Smith on June 13, 2005. The book and page number of the Mortgage in the Hancock County Registry of Deeds is Book 4221, Page 73.
- e) This judgment shall not create any personal liability on the part of the Defendants but shall act solely as an *in rem* judgment against the property, 42 Elm Street, Bucksport, ME 04416.

SO ORDERED

Dated this 30th day of June, 2021.

/s/ Lance E. Walker

UNITED STATES DISTRICT JUDGE